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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/832,729      | 04/09/2001  | Robert F. Baugh      | P9520               | 9763             |

27581 7590 10/01/2002

MEDTRONIC, INC.  
710 MEDTRONIC PARKWAY NE  
MS-LC340  
MINNEAPOLIS, MN 55432-5604

|                    |              |
|--------------------|--------------|
| EXAMINER           |              |
| DESANTO, MATTHEW F |              |
| ART UNIT           | PAPER NUMBER |

3763

DATE MAILED: 10/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/832,729

Applicant(s)

BAUGH ET AL.

Examiner

Matthew F DeSanto

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 09 April 2001.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-9 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-9 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "a spring means urging one end" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
3. Claims 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 1 recites the limitation "piston" in claim 1, fourth line. There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Antanavich et al. (5788662) and further in view of Fukunaga et al. (USPN 5582596).

Antanavich et al. discloses a platelet gel delivery system comprising a dispenser having a dual chamber cartridge comprising a first and second elongated hollow body each having an opening in one end, a plunger means positioned to move axially, a filter means, a restoration agent (calcium chloride), which is positioned within the first elongated hollow body and an activation agent (glass wool), but Antanavich fails to teach a spring that is positioned to move the plunger towards the opening, as well as placing the activation agent within the first elongated hollow body. (Figures 7 and 8, Column 15, lines 1-34, and Column 21, lines 1-53).

Fukunaga et al. discloses a biocompatible adhesive applicator comprising a first and second elongated hollow body, a plunger means, a spring means adapted to urge the plunger towards the opening of the hollow body, and a filter means. (Figures 3, 10-12, and Columns 6, lines 56-67).

Therefore, it would have been obvious at the time of the invention to combine Antanavich et al. with Fukunaga et al. because Fukunaga et al. disclosed using a spring to urge the plunger towards the opening which allows for a more uniform pressure distribution when applying force to the syringe as well as applying less force to the syringe because of the spring.

It would have been an obvious matter of design choice to one skilled in the art to modify the apparatus as taught by Antanavich et al. to have a the activation agent

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positioned within the said elongated hollow body, since applicant has not disclosed that the activation agent positioned within the said elongated hollow body provides any criticality and/or unexpected results and it appears that the invention would perform equally well with any, configuration such as the one as taught by Antanavich et al. for the reasoning that the reference teaches the same structure (being made out of glass wool) and the same intended use.

Therefore, it would have been obvious to combine the disclosed invention of Antanavich et al. with the teachings of Fukunaga et al. to obtain the invention as specific in claims 1-9.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F DeSanto whose telephone number is 1-703-305-3292. The examiner can normally be reached on Monday-Friday 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 1-703-308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are 1-703-872-9302 for regular communications and 1-703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 1-703-308-0858.

*Matthew DeSanto*  
Matthew DeSanto  
Art Unit 3763  
September 23, 2002

*ANHTUANT. NGUYEN*  
ANHTUANT. NGUYEN  
PRIMARY EXAMINER  
9/25/02